

CAUSE NO. \_\_\_\_\_

**JOHN WILLIAMS**  
*Plaintiff*

vs.

**LIGHTNING LOGISTICS AND  
TRANSPORT, INC. AND RAYMEL  
D. POWELL**  
*Defendants*§  
§  
§  
§  
§  
§  
§  
§**IN THE DISTRICT COURT**\_\_\_\_ **JUDICIAL DISTRICT****HARRIS COUNTY, TEXAS****PLAINTIFF'S ORIGINAL PETITION**

John Williams, hereinafter called Plaintiff, files his original petition against Raymel D. Powell, and Lightning Logistics and Transport, Inc. hereinafter called Defendants, and would show the Court the following:

**I. DISCOVERY CONTROL PLAN LEVEL**

1. Pursuant to Texas Rule of Civil Procedure 190.4 the discovery of this case is to be conducted under a Level 3 Discovery Control Plan to be agreed upon by the parties.

**II. PARTIES AND SERVICE**

2. Plaintiff, John Williams, is a resident of Harris County, Texas.
3. Defendant, Raymel D. Powell, is an Individual who is a resident of Missouri. He may be served with process at his home at the following address: 202 Sheppard Rd, Jackson, MS 39206, or wherever he may be found. Service of said Defendant can be effected by personal delivery.
4. Defendant, Lightning Logistics and Transport, Inc., a foreign corporation whose registered office is located in Georgia at 587 S New Salem Rd, Griffin, GA 30223, may be served with process by serving its registered agent for service of process, Stephen Gaddis, at 587 S New Salem Rd, Griffin, GA 30223.

### **III. JURISDICTION AND VENUE**

5. The subject matter in controversy is within the jurisdictional limits of this court.

6. This court has jurisdiction over the parties because Defendant Raymel D. Powell purposefully availed himself purposefully availed himself of the privilege of conducting activities in the state of Texas and established minimum contacts sufficient to confer jurisdiction over said Defendant, and the assumption of jurisdiction over Defendant will not offend traditional notions of fair play and substantial justice and is consistent with the constitutional requirements of due process.

7. This court has jurisdiction over the parties because Defendant Lightning Logistics and Transport, Inc. purposefully availed itself of the privilege of conducting activities in the state of Texas and established minimum contacts sufficient to confer jurisdiction over said Defendant, and the assumption of jurisdiction over Defendant will not offend traditional notions of fair play and substantial justice and is consistent with the constitutional requirements of due process.

8. Venue in Harris County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

### **IV. FACTS**

9. On July 5, 2021, Plaintiff John Williams was driving his vehicle eastbound on the 8300 block of Fallbrook Drive Harris County, Texas. At the same time, Defendant Raymel D. Powell was exiting from a private driveway, attempting to cross the eastbound lanes of Fallbrook Drive and turn left onto the westbound lanes of Fallbrook Drive in Harris County, Texas while driving an 18-wheeler towing a trailer in the course and scope of his employment for Lightning Logistics and Transport, Inc.. As Plaintiff approached the section of Fallbrook Drive in front of

the private drive on the through-road, Defendant failed to keep a proper lookout and control his speed, pulled out in front of Plaintiff without having the right-of-way, and caused a collision with Plaintiff's vehicle. As a result of the collision, Plaintiff suffered serious bodily injuries.

**V. PLAINTIFF'S CLAIM OF NEGLIGENCE  
AGAINST RAYMEL D. POWELL**

10. Defendant Raymel D. Powell had a duty to exercise the degree of care that a person of ordinary prudence would use to avoid harm to others under circumstances similar to those described herein.

11. Plaintiff's injuries were proximately caused by Defendant Raymel D. Powell's negligent, careless and reckless disregard of said duty.

12. The negligent, careless and reckless disregard of duty of Defendant Raymel D. Powell consisted of, but is not limited to, the following acts and omissions:

- A. In that Defendant Raymel D. Powell failed to keep a proper lookout for Plaintiff's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
- B. In that Defendant Raymel D. Powell was operating his motor vehicle at a rate of speed which was greater than that would have been operated by a person of ordinary prudence under the same or similar circumstances;
- C. In that Defendant Raymel D. Powell failed to operate a motor vehicle as a person using ordinary prudent care would have done;
- D. In that Defendant Raymel D. Powell failed to maintain a clear and reasonable distance between Plaintiff's motor vehicle and Defendant's motor vehicle which would permit Defendant to bring his motor vehicle to a safe stop without colliding into Plaintiff's motor vehicle;
- E. In that Defendant Raymel D. Powell failed to keep such distance away from Plaintiff's motor vehicle as a person using ordinary prudent care would have done;
- F. In that Defendant Raymel D. Powell failed to turn his motor vehicle in an effort to avoid the collision complained of;

- G. In that Defendant Raymel D. Powell failed to apply his brakes to his motor vehicle in a timely and prudent manner and/or wholly failed to apply his brakes in order to avoid the collision in question;
- H. In that Defendant Raymel D. Powell failed to stop at an Official-Traffic Control Device; and
- I. In that Defendant Raymel D. Powell failed to yield the right-of-way to Plaintiff.

**VI. PLAINTIFF'S CLAIM OF RESPONDEAT SUPERIOR  
AGAINST DEFENDANT LIGHTNING LOGISTICS AND TRANSPORT, INC.**

13. Plaintiff was injured as a result of Defendant Lightning Logistics and Transport, Inc.'s employee's negligence.

14. Defendant Lightning Logistics and Transport, Inc.'s employee's negligence was performed while employee was within the course and scope of that employment.

15. Defendant Lightning Logistics and Transport, Inc.'s employee had a duty to exercise the degree of care that a reasonably careful person would use to avoid harm to others under circumstances similar to those described herein.

16. Plaintiffs' injuries were proximately caused by Defendant Lightning Logistics and Transport, Inc.'s employee's negligent, careless and/or reckless disregard of said duty.

17. The negligent, careless and/or reckless disregard of duty of Defendant Lightning Logistics and Transport, Inc.'s employee consisted of, but is not limited to, the following acts and omissions:

- A. In that Defendant Raymel D. Powell failed to keep a proper lookout for Plaintiff's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
- B. In that Defendant Raymel D. Powell was operating his motor vehicle at a rate of speed which was greater than that would have been operated by a person of ordinary prudence under the same or similar circumstances;

- C. In that Defendant Raymel D. Powell failed to operate a motor vehicle as a person using ordinary prudent care would have done;
- D. In that Defendant Raymel D. Powell failed to maintain a clear and reasonable distance between Plaintiff's motor vehicle and Defendant's motor vehicle which would permit Defendant to bring his motor vehicle to a safe stop without colliding into Plaintiff's motor vehicle;
- E. In that Defendant Raymel D. Powell failed to keep such distance away from Plaintiff's motor vehicle as a person using ordinary prudent care would have done;
- F. In that Defendant Raymel D. Powell failed to turn his motor vehicle in an effort to avoid the collision complained of;
- G. In that Defendant Raymel D. Powell failed to apply his brakes to his motor vehicle in a timely and prudent manner and/or wholly failed to apply his brakes in order to avoid the collision in question;
- H. In that Defendant Raymel D. Powell failed to stop at an Official-Traffic Control Device; and
- I. In that Defendant Raymel D. Powell failed to yield the right-of-way to Plaintiff.

#### **VII. DAMAGES FOR PLAINTIFF JOHN WILLIAMS**

- 18. Plaintiff incorporates all factual allegations made above.
- 19. As a result of the incident made the basis of this lawsuit described in the preceding paragraphs and the negligence of Defendants, Plaintiff sustained significant injuries and damages in the past and future.
- 20. Plaintiff seeks monetary relief of over \$1,000,000.

#### **VIII. DEMAND FOR TRIAL BY JURY**

- 21. Plaintiff demands a jury trial and tenders the appropriate fee with this petition.

#### **IX. REQUESTS FOR DISCLOSURE**

- 22. Under Texas Rules of Civil Procedure 194, Plaintiff requests that Defendant

disclose, within 50 days of the service of this request, the information or material described in rule 194.2.

#### **X. RULE 193.7 NOTICE**

23. Pursuant to TEX. R. CIV. P. 193.7, Plaintiff hereby gives actual notice to each Defendant that any and all documents produced may be used against the Defendant producing the document at any pretrial proceeding and/or at the trial of this matter without the necessity of authenticating the documents.

#### **XI. PRAYER**

Plaintiff prays that citation issue and be served upon Defendants requiring them to appear and answer. Plaintiff seeks damages as set forth above in excess of the minimum jurisdictional limits of this court, monetary relief in excess of \$1,000,000, pre-judgment and post-judgment interest, court costs, punitive damages, and all such other relief to which Plaintiff shows himself justly entitled as well as the monetary value of these damages, which include, but are not limited to:

1. Reasonable medical care and expenses in the past;
2. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
3. Physical pain and suffering in the past;
4. Physical pain and suffering in the future;
5. Physical impairment in the past;
6. Physical impairment which, in all reasonable probability, will be suffered in the future;
7. Physical disfigurement;
8. Loss of Wages in the past;

9. Loss of Wages in the future;
10. Mental anguish in the past;
11. Mental anguish in the future; and
12. Property damage

Respectfully submitted,

**THE MORRELL LAW FIRM, PLLC**

By: /s/ Christopher Morrell

Christopher Morrell  
State Bar No. 24077383  
Email: cmorrell@themorrellfirm.com  
Boone Moyle  
State Bar No. 24121238  
Email: bmoyle@themorrellfirm.com

3730 Kirby, Suite 1030  
Houston, Texas 77098  
(833) 667-7355 / F: (713) 322-5998  
ECF: team@themorrellfirm.com

**ATTORNEYS FOR PLAINTIFF**

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Christopher Morrell on behalf of Christopher Morrell

Bar No. 24077383

cmorrell@themorrellfirm.com

Envelope ID: 56730073

Status as of 8/27/2021 1:24 PM CST

**Case Contacts**

Name	BarNumber	Email	TimestampSubmitted	Status
Boone Moyle		bmoyle@themorrellfirm.com	8/27/2021 12:36:50 PM	SENT
Christopher Morrell		cmorrell@themorrellfirm.com	8/27/2021 12:36:50 PM	SENT
Mariselma Ayala-Stephens		mayala-stephens@themorrellfirm.com	8/27/2021 12:36:50 PM	SENT



CAUSE NUMBER (FOR CLERK USE ONLY):

COURT (FOR CLERK USE ONLY):

STYLED John Williams vs. Raymel D. Powell and Lightning Logistics and Transport, Inc.

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

<b>1. Contact information for person completing case information sheet:</b>		<b>Names of parties in case:</b>		<b>Person or entity completing sheet is:</b>
Name:	Email:	Plaintiff(s)/Petitioner(s):		<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner
Christopher Morrell	cmorrell@themorrellfirm.com	John Williams		<input type="checkbox"/> Pro Se Plaintiff/Petitioner
Address:	Telephone:	Defendant(s)/Respondent(s):		<input type="checkbox"/> Title IV-D Agency
3730 Kirby Drive, Suite 1030	833-667-7355	Raymel D. Powell		<input type="checkbox"/> Other: _____
City/State/Zip:	Fax:	Lightning Logistics and Transport, Inc.		Additional Parties in Child Support Case:
Houston, TX 77098	713-322-5998			Custodial Parent:
Signature:	State Bar No:			Non-Custodial Parent:
Christopher Morrell	24077383			Presumed Father:
[Attach additional page as necessary to list all parties]				
<b>2. Indicate case type, or identify the most important issue in the case (select only 1):</b>				
<b>Civil</b>			<b>Family Law</b>	
<b>Contract</b>	<b>Injury or Damage</b>	<b>Real Property</b>	<b>Marriage Relationship</b>	<b>Post-judgment Actions (non-Title IV-D)</b>
<b>Debt/Contract</b> <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____  <b>Foreclosure</b> <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <b>Malpractice</b> <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input checked="" type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <b>Product Liability</b> <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____  <b>Related to Criminal Matters</b> <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____	<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <b>Divorce</b> <input type="checkbox"/> With Children <input type="checkbox"/> No Children  <b>Other Family Law</b> <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other  <b>Title IV-D</b> <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocals (UIFSA) <input type="checkbox"/> Support Order  <b>Parent-Child Relationship</b> <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____
<b>Employment</b>	<b>Other Civil</b>			
<input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____	<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____			
<b>Tax</b>	<b>Probate &amp; Mental Health</b>			
<input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax	<b>Probate/Wills/Intestate Administration</b> <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings		<input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____	
<b>3. Indicate procedure or remedy, if applicable (may select more than 1):</b>				
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover
<b>4. Indicate damages sought (do not select if it is a family law case):</b>				
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input checked="" type="checkbox"/> Over \$1,000,000				

CAUSE NO. 202154192

Marilyn Burgess - District Clerk Harris County

Envelope No. 59429990

By: Jennifer Ochoa

Filed: 11/23/2021 12:52 PM

COPY OF PLEADING PROVIDED BY PLT

RECEIPT No. 898482 TR# 73908178

EML

Plaintiff:

WILLIAMS, JOHN

vs.

Defendant:

POWELL, RAYMEL D

In The 334th

Judicial District Court of  
Harris County, Texas

201 CAROLINE

Houston, Texas

## CITATION (NON-RESIDENT CORPORATE)

THE STATE OF TEXAS

County of Harris

To: LIGHTNING LOGISTICS AND TRANSPORT INC (A FOREIGN CORPORATION) MAY BE SERVED WITH  
PROCESS BY SERVING ITS REGISTERED AGENT STEPHEN GADDIS  
587 S NEW SALEM RD, GRIFFIN GA 30223

Attached is a copy of: PLAINTIFF'S ORIGINAL PETITION

This instrument was filed on August 27, 2021 in the above cited cause number and court. The  
instrument attached describes the claim against you.

YOU HAVE BEEN SUED. You may employ an attorney. If you or your Attorney do not file  
a written answer with the District Clerk who issued this citation by 10:00 a.m. on the  
Monday next following the expiration date of 20 days after you were served this citation and  
petition, a default judgment may be taken against you. In addition to filing a written  
answer with the clerk, you may be required to make initial disclosures to the other parties  
of this suit. These disclosures generally must be made no later than 30 days after you file  
your answer with the clerk. Find out more at TexasLawHelp.org.

TO OFFICER SERVING:

This citation was issued on August 30, 2021, under my hand and seal of said court.

Issued at the request of:

MORRELL, CHRISTOPHER LEE  
3730 KIRBY, SUITE 1030  
HOUSTON, TX 77098  
833-667-7355  
Bar Number: 24077383

*Marilyn Burgess*

Marilyn Burgess, District Clerk

Harris County, Texas  
201 CAROLINE, Houston, TX 77002  
(PO Box 4651, Houston, TX  
77210)

Generated By: JOSHUA HALL

Tracking Number: 73908178  
EML

CAUSE NUMBER: 202154192

PLAINTIFF: WILLIAMS, JOHN  
vs.  
DEFENDANT: POWELL, RAYMEL D

In the 334th  
Judicial District Court of  
Harris County, Texas

OFFICER - AUTHORIZED PERSON RETURN

Came to hand at 12:41 o'clock P. M. on the 10 TH day of NOVEMBER,  
2021. Executed at

(Address) 587 S. NEW SALAM RD, GRIFFIN, GEORGIA, 30223  
in

SPALDING County at o'clock 9. A.M. On the 20 day of  
NOVEMBER, 2021, by

Delivering to Lightning Logistics And Transport in c/o Stephen Gaddis, Authorized defendant, in person, a true  
copy of this Citation together with the accompanying 1 copy(ies) of the Petition.  
Petition attached thereto and I endorsed on said copy of the Citation the date of delivery.

To certify which I affix my hand officially this 23 day of  
NOVEMBER, 2021.

Fees \$ 85.00

By Rochelle Earthrise  
Affiant ROCHELLE EARTHRISE CPS 236

Deputy / NOTARY

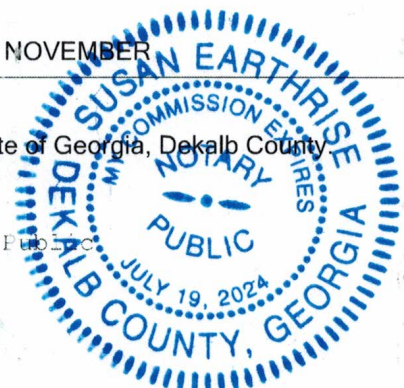
On this day, ROCHELLE EARTHRISE, known to me to be the  
person whose signature appears on the foregoing return, personally appeared. After being by  
me duly sworn, he/she stated that this citation was executed by him/her in the exact manner  
recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME, On this 23 day of NOVEMBER,  
2021

Susan Earthrise

The State of Georgia, DeKalb County

Notary Public



**Automated Certificate of eService**

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Christopher Morrell on behalf of Christopher Morrell

Bar No. 24077383

cmorrell@themorrellfirm.com

Envelope ID: 59429990

Status as of 11/23/2021 2:20 PM CST

**Case Contacts**

<b>Name</b>	<b>BarNumber</b>	<b>Email</b>	<b>TimestampSubmitted</b>	<b>Status</b>
Christopher Morrell		cmorrell@themorrellfirm.com	11/23/2021 12:52:42 PM	SENT
Mariselma Ayala-Stephens		mayala-stephens@themorrellfirm.com	11/23/2021 12:52:42 PM	SENT

CAUSE NO. 2021-54192

JOHN WILLIAMS,	§	IN THE DISTRICT COURT
	§	
<i>Plaintiff,</i>	§	
	§	
vs.	§	HARRIS COUNTY, TEXAS
	§	
LIGHTNING LOGISTICS AND	§	
TRANSPORT, INC. AND RAYMEL	§	
D. POWELL,	§	
	§	
<i>Defendants</i>	§	334th JUDICIAL DISTRICT

**DEFENDANT RAYMEL D. POWELL'S ORIGINAL ANSWER AND SPECIAL  
EXCEPTIONS TO PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Raymel D. Powell, Defendant in the above-numbered cause and in answer to Plaintiff's Original Petition, would respectfully show unto this Honorable Court and Jury as follows:

**GENERAL DENIAL**

1. Defendant herein, pursuant to the provisions of Rule 92 of the Texas Rules of Civil Procedure, denies each and every, singular and all, the allegations contained in Plaintiff's Original Petition says that the allegations contained therein are not true, either in whole or in part, and demands strict proof thereof. Defendant further reserves the right to amend this answer at a future date in accordance with the Texas Rules of Civil Procedure as more specific knowledge becomes available.

**AFFIRMATIVE DEFENSES**

2. Pleading further and without waiving the foregoing, Defendant would further show that resulting damages to Plaintiff, if any, were proximately caused by the negligence of third parties over which Defendant had no control nor right of control at the time of the incident made the basis of Plaintiff's suit. The incident was proximately caused, in whole or in part, by a new,



independent, and/or superseding act or omission of negligence or breach of some duty or warranty of third parties over whom these Defendant had no control or right of control.

3. Defendant specifically pleads, invokes, and reserves the following rights as guaranteed by Chapters 32 and 33 of Texas Civil Practice & Remedies Code to the extent they are ultimately applicable to this case:

- a) The right to a reduction of any dollar verdict which may be rendered in this case in accordance with §§ 33.012-.013 of the Texas Civil Practice & Remedies Code.
- b) The right to have the trier-of-fact compare the responsibility of each party, each settling person, and each responsible third party and assign percentages to such parties, persons, and responsible third parties in accordance with the provisions of Chapter 33 of the Texas Civil Practice & Remedies Code.
- c) The right to contribution in accordance with the provisions of §§ 32.001 et seq. and §§ 33.015-.016 of the Texas Civil Practice & Remedies Code.

4. Defendant invokes TEX. CIV. PRAC. & REM. CODE § 41.0105 and requests that to the extent Plaintiff seeks recovery of medical or healthcare expenses incurred, that the evidence to prove such loss must be limited to the amount actually paid or incurred by or on behalf of Plaintiff. Defendant further requests the Court to instruct the jury that any recovery for medical or healthcare expenses sought by Plaintiff is limited to the amount actually paid or incurred by or on behalf of Plaintiff.

5. The injuries and/or damages for which the Plaintiff has sought compensation in this suit (1) may have been caused, in whole or in part, by events, conditions, injuries, diseases, and disabilities that occurred prior to the accident or (2) events, conditions, injuries, diseases, or disabilities that occurred after the accident and were not caused by the accident nor any act or omission attributable to Defendant.

6. The accident may have been solely and/or proximately caused by the Plaintiff's

failure to use ordinary care for his own safety.

7. Pursuant to TEX. CIV. PRAC. & REM. CODE § 33.012, if any settlement has occurred with a settling party, Defendant is entitled to a credit.

8. Defendant invokes the defenses, limitations, and/or provisions of Section 18.091 of the Texas Civil Practice and Remedies Code. The Plaintiff's claim for lost earnings, lost earning capacity, or other losses that have pecuniary value, if any, must be presented in the form of a net loss after reduction for income tax payments or unpaid tax pursuant to federal income tax law. Defendant also requests the Court to instruct the Jury that any recovery for lost earnings, lost earning capacity, or other losses that have pecuniary value is subject to federal or state income taxes.

9. The Plaintiff may have failed to mitigate his damages.

#### **JURY DEMAND**

10. Further, Defendant herein, pursuant to the provisions of Rule 216 of the Texas Rules of Civil Procedure, hereby formally makes this demand and application for a jury trial in this litigation. A jury fee is being paid with this Original Answer.

#### **SPECIAL EXCEPTIONS**

11. Defendant specially excepts to Paragraph "VII. DAMAGES FOR PLAINTIFF JOHN WILLIAMS" of Plaintiff's Original Petition as it fails to specify the maximum amount of damages sought. *See* TEX. R. CIV. P. 47.

#### **PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendant herein prays that Plaintiff takes nothing by reason of this suit, that Defendant be discharged and that it goes hence with its costs, without delay, and for all such other and further relief, both general and special, at law and in

equity, to which it may show itself justly entitled, for which it will in duty bound forever pray.

Respectfully submitted,

**RESNICK & LOUIS, P.C.**

/s/ Mary Holmesly

**MARY HOLMESLY**

State Bar No. 24057907

Email: [mholmesly@rlattorneys.com](mailto:mholmesly@rlattorneys.com)

**JAS JORDAN**

State Bar No. 24110069

Email: [jjordan@rlattorneys.com](mailto:jjordan@rlattorneys.com)

1512 Center Street, Suite 100

Houston, Texas 77007

Telephone/Facsimile: (281) 606-0637

**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

THIS WILL CERTIFY that a true and correct copy of the foregoing instrument has been served on all attorneys of record in this cause of action pursuant to Texas Rule of Civil Procedure 21a, on the 10<sup>th</sup> day of December 2021.

Christopher Morrell  
Boone Moyle  
The Morrell Law Firm, PLLC  
3730 Kirby, Suite 1030  
Houston, Texas 77098

/s/ Mary Holmesly

Mary Holmesly



**Automated Certificate of eService**

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Alison Shirley on behalf of Mary Holmesly  
 Bar No. 24057907  
 ashirley@rlattorneys.com  
 Envelope ID: 59928940  
 Status as of 12/10/2021 4:24 PM CST

**Case Contacts**

<b>Name</b>	<b>BarNumber</b>	<b>Email</b>	<b>TimestampSubmitted</b>	<b>Status</b>
Christopher Morrell		cmorrell@themorrellfirm.com	12/10/2021 4:21:01 PM	SENT
Mariselma Ayala-Stephens		mayala-stephens@themorrellfirm.com	12/10/2021 4:21:01 PM	SENT
Jeanne Smaistrila		jsmaistrila@rlattorneys.com	12/10/2021 4:21:01 PM	SENT
Service @ Resnick & Louis		mail@rlattorneys.com	12/10/2021 4:21:01 PM	SENT
Jasmine 'Jas' Jordan		jjordan@rlattorneys.com	12/10/2021 4:21:01 PM	SENT
Mary Holmesly		mholmesly@rlattorneys.com	12/10/2021 4:21:01 PM	SENT

CAUSE NO. 2021-54192

JOHN WILLIAMS,	§	IN THE DISTRICT COURT
	§	
<i>Plaintiff,</i>	§	
	§	
vs.	§	HARRIS COUNTY, TEXAS
	§	
LIGHTNING LOGISTICS AND	§	
TRANSPORT, INC. AND RAYMEL	§	
D. POWELL,	§	
	§	
<i>Defendants</i>	§	334th JUDICIAL DISTRICT

**DEFENDANT, LIGHTNING LOGISTICS AND TRANSPORT, INC.'S ORIGINAL  
ANSWER AND SPECIAL EXCEPTIONS TO PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Lightning Logistics and Transport, Inc., Defendant in the above-numbered cause and in answer to Plaintiff's Original Petition, would respectfully show unto this Honorable Court and Jury as follows:

**GENERAL DENIAL**

1. Defendant herein, pursuant to the provisions of Rule 92 of the Texas Rules of Civil Procedure, denies each and every, singular and all, the allegations contained in Plaintiff's Original Petition says that the allegations contained therein are not true, either in whole or in part, and demands strict proof thereof. Defendant further reserves the right to amend this answer at a future date in accordance with the Texas Rules of Civil Procedure as more specific knowledge becomes available.

**AFFIRMATIVE DEFENSES**

2. Pleading further and without waiving the foregoing, Defendant would further show that resulting damages to Plaintiff, if any, were proximately caused by the negligence of third parties over which Defendant had no control nor right of control at the time of the incident made the basis of Plaintiff's suit. The incident was proximately caused, in whole or in part, by a new,

independent, and/or superseding act or omission of negligence or breach of some duty or warranty of third parties over whom these Defendant had no control or right of control.

3. Defendant specifically pleads, invokes, and reserves the following rights as guaranteed by Chapters 32 and 33 of Texas Civil Practice & Remedies Code to the extent they are ultimately applicable to this case:

- a) The right to a reduction of any dollar verdict which may be rendered in this case in accordance with §§ 33.012-.013 of the Texas Civil Practice & Remedies Code.
- b) The right to have the trier-of-fact compare the responsibility of each party, each settling person, and each responsible third party and assign percentages to such parties, persons, and responsible third parties in accordance with the provisions of Chapter 33 of the Texas Civil Practice & Remedies Code.
- c) The right to contribution in accordance with the provisions of §§ 32.001 et seq. and §§ 33.015-.016 of the Texas Civil Practice & Remedies Code.

4. Defendant invokes TEX. CIV. PRAC. & REM. CODE § 41.0105 and requests that to the extent Plaintiff seeks recovery of medical or healthcare expenses incurred, that the evidence to prove such loss must be limited to the amount actually paid or incurred by or on behalf of Plaintiff. Defendant further requests the Court to instruct the jury that any recovery for medical or healthcare expenses sought by Plaintiff is limited to the amount actually paid or incurred by or on behalf of Plaintiff.

5. The injuries and/or damages for which the Plaintiff has sought compensation in this suit (1) may have been caused, in whole or in part, by events, conditions, injuries, diseases, and disabilities that occurred prior to the accident or (2) events, conditions, injuries, diseases, or disabilities that occurred after the accident and were not caused by the accident nor any act or omission attributable to Defendant.

6. The accident may have been solely and/or proximately caused by the Plaintiff's

failure to use ordinary care for his own safety.

7. Pursuant to TEX. CIV. PRAC. & REM. CODE § 33.012, if any settlement has occurred with a settling party, Defendant is entitled to a credit.

8. Defendant invokes the defenses, limitations, and/or provisions of Section 18.091 of the Texas Civil Practice and Remedies Code. The Plaintiff's claim for lost earnings, lost earning capacity, or other losses that have pecuniary value, if any, must be presented in the form of a net loss after reduction for income tax payments or unpaid tax pursuant to federal income tax law. Defendant also requests the Court to instruct the Jury that any recovery for lost earnings, lost earning capacity, or other losses that have pecuniary value is subject to federal or state income taxes.

9. The Plaintiff may have failed to mitigate his damages.

#### **JURY DEMAND**

10. Further, Defendant herein, pursuant to the provisions of Rule 216 of the Texas Rules of Civil Procedure, hereby formally makes this demand and application for a jury trial in this litigation. A jury fee is being paid with this Original Answer.

#### **SPECIAL EXCEPTIONS**

11. Defendant specially excepts to Paragraph "VII. DAMAGES FOR PLAINTIFF JOHN WILLIAMS" of Plaintiff's Original Petition as it fails to specify the maximum amount of damages sought. *See* TEX. R. CIV. P. 47.

#### **PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendant herein prays that Plaintiff takes nothing by reason of this suit, that Defendant be discharged and that it goes hence with its costs, without delay, and for all such other and further relief, both general and special, at law and in

equity, to which it may show itself justly entitled, for which it will in duty bound forever pray.

Respectfully submitted,

**RESNICK & LOUIS, P.C.**

/s/ Mary Holmesly

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**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

THIS WILL CERTIFY that a true and correct copy of the foregoing instrument has been served on all attorneys of record in this cause of action pursuant to Texas Rule of Civil Procedure 21a, on the 10<sup>th</sup> day of December 2021.

Christopher Morrell  
Boone Moyle  
The Morrell Law Firm, PLLC  
3730 Kirby, Suite 1030  
Houston, Texas 77098

/s/ Mary Holmesly

Mary Holmesly

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Alison Shirley on behalf of Mary Holmesly  
 Bar No. 24057907  
 ashirley@rlattorneys.com  
 Envelope ID: 59928940  
 Status as of 12/10/2021 4:24 PM CST

**Case Contacts**

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